

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA

GEORGE KEITH MARTIN,

Plaintiff,

v.

CIVIL ACTION NO. 1:08CV205
(Judge Keeley)

DEPARTMENT OF JUSTICE,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 22], DENYING
AS MOOT DEFENDANT'S MOTION TO DISMISS, OR ALTERNATIVELY MOTION
FOR SUMMARY JUDGMENT [DKT. NO. 14], AND DENYING AS MOOT
PLAINTIFF'S MOTION FOR VOLUNTARY DISMISSAL WITHOUT PREJUDICE
[DKT. NO. 29]

On February 23, 2010, the pro se plaintiff, George Keith Martin ("Martin"), filed a motion for voluntary dismissal of his Freedom of Information Act ("FOIA") lawsuit without prejudice. (dkt. no. 29). In support of this motion, Martin asserts that he lacks access to suitable legal research materials, is unable to access his files and records, has no record of certain responses to his original complaint, is under no obligation to respond to Magistrate Judge Kaul's pending Report and Recommendation ("R&R"), has never withdrawn his underlying FOIA request, and is not a lawyer.

The pending R&R concludes that Martin has failed to properly comply with the FOIA process. It also finds that he has failed to exhaust the administrative remedies available to him under FOIA, that he must do so before seeking recourse in the courts, and

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therefore recommends that Martin's lawsuit be dismissed without prejudice.

Other than filing a motion for voluntary dismissal without prejudice, Martin has filed no objections to the R&R. Because his deadline to do so has passed, and because Magistrate Judge Kaull's recommendation, if adopted, would grant Martin the same relief he presently seeks, based on the reasoning of the magistrate judge, the Court **ADOPTS** the R&R's recommendation of dismissal without prejudice (dkt. no. 22) and **ORDERS** that Martin's FOIA suit be **DISMISSED WITHOUT PREJUDICE**. The Court therefore **DENIES AS MOOT** the defendant's motion to dismiss, or alternatively, motion for summary judgment (dkt. no. 14), and Martin's motion for voluntary dismissal without prejudice. (dkt. no. 29).

It is so **ORDERED**. The Court **DIRECTS** the Clerk to forward a copy of this Order to all counsel and appropriate agencies and to send a copy of this Order to George Keith Martin, via certified mail, return receipt requested.

DATED: March 12, 2010.

/s/ Irene. M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE